

EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP

JONATHAN S. ABADY
MATTHEW D. BRINCKERHOFF
ANDREW G. CELLI, JR.
RICHARD D. EMERY
DEBRA L. GREENBERGER
DIANE L. HOUK
DANIEL J. KORNSTEIN
JULIA P. KUAN
HAL R. LIEBERMAN
ILANN M. MAAZEL
KATHERINE ROSENFELD
ZOE SALZMAN
SAM SHAPIRO
EARL S. WARD
O. ANDREW F. WILSON

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbawm.com

VASUDHA TALLA

ERIC ABRAMS
NAIRUBY L. BECKLES
MARISSA BENAVIDES
DAVID BERMAN
NICK BOURLAND
DANIEL M. EISENBERG
SARA LUZ ESTELA
ANDREW K. JONDAHL
NOEL R. LEÓN
SANA MAYAT
HARVEY PRAGER
VIVAKE PRASAD
MAX SELVER
EMILY K. WANGER

June 6, 2023

Via ECF

Honorable Vera M. Scanlon
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Nadezda Steele-Warrick v. Microgenics Corporation et al.*,
No. 19-cv-6558 (FB) (VMS)

Dear Judge Scanlon:

This firm represents Plaintiffs in the above-captioned case. Pursuant to the Court's February 24, 2023 Order, we write jointly with all counsel to provide the Court with a status update identifying all presently outstanding discovery disputes.

The parties have held twenty days of depositions and completed eighteen depositions thus far. Seventeen more noticed depositions have yet to be taken. Paper discovery is substantially completed, although the parties are still reviewing the additional 10,228 pages of documents produced by Defendants Annucci and O'Gorman on May 18, 2023. Any additional productions by third parties in response to subpoenas will be shared amongst the parties.

The discovery disputes pending before the Court are as follows:

- The parties' joint motion for an extension of time to complete fact discovery until September 30, 2023 for the limited purpose of completing depositions. [Dkt. No. 215]
- Defendants Annucci's and O'Gorman's motion for a protective order. [Dkt. No. 199]
- Defendants Annucci's and O'Gorman's motion to stay discovery pending their interlocutory appeal [Dkt. No. 206], joined by Defendant Finnegan [Dkt. No. 214] and Defendant Kelly [Dkt. No. 216].

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- Plaintiffs' request for up to six hours of questioning for most witnesses and up to seven hours of questioning for a limited group of key witnesses (Larry Wilkie, Brenda Collum, Anthony Annucci, Corey Bedard, DOCCS's Rule 30(b)(6) representative, and the Corporate Defendants' Rule 30(b)(6) representatives). [Dkt. No. 215]
- Plaintiffs' request, joined by Defendants Annucci, O'Gorman, Finnegan, Kelly, and Bedard, for two deposition days for Larry Wilkie, Brenda Collum, and the Corporate Defendants' Rule 30(b)(6) representatives.¹ [Dkt. No. 215]
- Plaintiffs' request for two deposition days for the depositions of Defendants Annucci and Bedard, and DOCCS's Rule 30(b)(6) representative. [Dkt. No. 215]
- Defendant Bedard's motion to compel responses from Defendant Microgenics to his demand for documents dated April 21, 2023. [Dkt. No. 219]

Many logistical issues pertaining to the remaining depositions will depend on whether the Court grants the parties' joint request for an extension to complete fact discovery. For example, the parties have been notified that DOCCS Executive Deputy Commissioner Daniel Martuscello will not be produced for his deposition on the noticed date of June 7, as he will be assuming the operational oversight of DOCCS that week given Defendant Annucci's retirement from his position as Acting Commissioner. If the parties' joint extension request is granted, Mr. Martuscello's deposition could be rescheduled to a later date.

Until the Court rules on the parties' joint request, however, the parties will go forward with the depositions scheduled for the beginning of June. This includes the deposition of Defendant Kelly, scheduled for June 8, 2023, and the deposition of Defendant Finnegan, which the parties have rescheduled from June 15 to June 16 due to the status conference set for June 15.

Respectfully Submitted,

/s/

Emily K. Wanger

c. All counsel (by ECF)

¹ One day of Larry Wilkie's deposition took place on May 30, 2023. An application for a second day to depose Mr. Wilkie is forthcoming.